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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,162	01/19/2001	Rabindranath Dutta	AUS920000820US1	6290
35525	7590	01/11/2005	EXAMINER	
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			RIMELL, SAMUEL G	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/765,162

Applicant(s)

DUTTA ET AL.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**SAM RIMELL**  
**PRIMARY EXAMINER**

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 9-20 and 22-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Siefert (U.S. Patent 6,386,883, previously cited of record).

Claim 1: Siefert discloses a network that receives and establishes databases of computer program data (repositories of resources –FIG. 1). An intelligent administrator (col. 8, lines 54-67) performs a search of the computer program data for those programs having certain pre-defined temporal parameters (learning speed col. 16, lines 35-38). Initially, the student is assigned the lessons associated with the first pre-defined temporal value (slow learning speed). However, the system has the ability to change the first pre-defined temporal parameter to a second temporal parameter (faster or slower learning speed—FIG. 4 “adjust learning speed”). The change is based on a profile established for the student (FIG. 4, assessment block, “above average” or “below average”).

Claim 2: The user profile (FIG. 4, assessment block) indicating “below average” is indicative of a cognitive disability (a learning disability). Based on a student being profiled as “below average”, the temporal parameters “learning speed” can be changed.

Claim 3: The user profile (FIG. 4, assessment block) includes an indicator of a preferred value (above average) for the temporal parameter (learning speed). The remaining features of claim 3 are optionally recited.

Claim 4: The user profile (FIG. 4, assessment block) has an identifier associated with the temporal parameters, such as “above average” or “below average”. The intelligent administrator can search for different lessons or adjust the pace of the lessons based upon the information created in the student profile.

Claim 5: The intelligent administrator (diagrammatically illustrated as a circle in FIG. 1) can receive computer program content from repositories (FIG. 1) that constitute content servers.

Claim 6: The intelligent administrator is a proxy server that stands between the repository servers and the students.

Claim 7: The repositories in FIG. 1 are storage devices.

Claim 9: The temporal parameter of learning speed is considered to be a timing interval.

Claim 10: The temporal parameter of learning speed inherently has multiple values by reason that it can be adjusted (FIG. 4, “adjust learning speed”). The preferred value can be the value that is established after the adjustment is made.

Claim 11: Adjusting the learning speed (FIG.4) inherently modifies a value of the temporal parameter of learning speed by a certain degree. The value of that degree can be a multiplier. For example, if the learning speed is doubled, the multiplier is 2.

Claim 12: As seen in FIG. 4, the pre-defined temporal parameter (learning speed) can be identified as requiring adjustment. A new value for the temporal parameter can then be established, such as a higher learning speed or slower learning speed, based on identifying that the student is above or below average in their cognitive abilities.

Claim 13: Once the learning speed has been adjusted, the lessons output to the student are adjusted accordingly.

Claim 14: See remarks for claim 1.

Claim 15: See remarks for claim 2.

Claim 16: See remarks for claim 3.

Claim 17: See remarks for claim 4.

Claim 18: See remarks for claim 5.

Claim 19: See remarks for claim 6.

Claim 20: See remarks for claim 7.

Claim 22: See remarks for claim 9.

Claim 23: See remarks for claim 10.

Claim 24: See remarks for claim 11.

Claim 25: See remarks for claim 12.

Claim 26: See remarks fro claim 13.

Claim 27: See remarks for claim 1.

Claim 28: See remarks for claim 2.

Claim 29: See remarks for claim 9.

Claim 30: See remarks for claim 10.

Claim 31: See remarks for claim 11.

Claim 32: See remarks for claim 12.

Claim 33: See remarks for claim 13.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siefert (U.S. Patent 6,386,883) in view of McCormick (US Pre-Grant Publication US2002/0064767).

Claims 8 and 21: Siefert teaches that the instructional materials can be delivered to a student through a computer connected to a modem (col. 8, lines 8-13) but does not explicitly teach the transmission via the Internet with its HTML document protocols. However, such transmission of educational materials using documents with HTML protocols is taught by McCormick (paragraph 0026). It would have been obvious to one of ordinary skill in the art to modify Siefert to transmit educational materials to the student over the Internet using standard Internet HTML document protocols in order to permit economical access to data without the need to establish a private network.

#### Remarks

Applicant's amendments have overcome the application of the McCormick reference under 35 USC 102(e). However, the amendments have raised a new grounds of rejections under both 35 USC 102 and 35 USC 103. Since the new grounds of rejection were necessitated by amendment and are based upon prior art which was already established in the record, this action must be made final.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.

A handwritten signature in black ink, appearing to read 'Sam Rimell', is positioned above the printed name.

Sam Rimell  
Primary Examiner  
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